UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DATA TREASURY CORPORATION, **Plaintiff,** **v.** **WELLS FARGO & COMPANY, et al.,** **Defendants.**	**2:06-CV-72 DF**

JOINT MOTION TO STAY AND EXTEND DEADLINES

DataTreasury Corporation ("DataTreasury"), Plaintiff, and Wells Fargo & Company and Wells Fargo Bank, N.A. (collectively "Wells Fargo"), Defendants, file this Joint Motion to Stay and Extend Deadlines (the "Joint Motion") as follows:

1. When good cause exists, as it does here, a district court has broad discretion to extend a party's motion deadline.[1] Further, a court has broad discretion to enter a stay of the proceedings, especially in light of a motion to dismiss, or stay, pending arbitration.[2]

2. On January 8, 2007, Wells Fargo & Company and Wells Fargo Bank, N.A. filed a Motion to Dismiss or, in the Alternative, to Stay Pending Arbitration ("Motion to Dismiss"). Accordingly, DataTreasury's deadline to respond to the Motion to Dismiss is currently due on January 22, 2007.

3. The parties have agreed to, and Wells Fargo does not oppose, an extension of DataTreasury's deadline to respond to the Motion to Dismiss to February 6, 2007. In exchange,

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[1] *Ciena Corp. v. Nortel Networks, Inc.*, 233 F.R.D. 493, 493 (E.D. Tex. 2006).

[2] *See* 9 U.S.C. § 3 (2002); *Foster v. Ward*, 79 Fed. Appx. 673, 673 (5th Cir. 2003); *Apache Bohai Corp. v. Texaco China, B.V.*, 330 F.3d 307, 310-11 (5th Cir. 2003).

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to avoid any potentially unnecessary expense of litigation during the Court's determination of Wells Fargo's Motion to Dismiss, the parties agree that all discovery and motion practice between DataTreasury and Wells Fargo for any purpose in the above-captioned lawsuit should be stayed pending the Court's ruling on the merits of Wells Fargo's Motion to Dismiss, subject to the following provision.

4. Neither party is currently aware of any discovery or motion practice related to discovery that is necessary for the Court to determine Wells Fargo's Motion to Dismiss. Notwithstanding the foregoing, the parties have further agreed that, to the extent either party later determines that limited discovery or motion practice related to such discovery is needed solely with regard to the Court's determination of the Motion to Dismiss, the parties shall meet and confer to attempt to agree on whether the proposed discovery or motion practice related to the proposed discovery is appropriately limited to and directly pertaining to a determination of arbitrability. If the parties are unable to so agree, the disputed discovery or motion related to discovery shall be submitted to Magistrate Judge Craven, the appointed Discovery Master in this lawsuit, for consideration and ruling.

FOR THE FOREGOING REASONS, DataTreasury Corporation, Wells Fargo & Company and Wells Fargo Bank, N.A. respectfully request that the Court extend DataTreasury's deadline to respond to Wells Fargo's Motion to Dismiss to February 6, 2007, and with the exception described in Paragraph 4 of this Joint Motion, stay all discovery and motion practice between DataTreasury and Wells Fargo for any purpose in the above-captioned lawsuit pending the Court's ruling on the merits of Wells Fargo's Motion to Dismiss. A proposed Order with the new briefing deadlines is attached.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of January 2007, a true and correct copy of the *Joint Motion to Stay and Extend Deadlines* was forwarded to the following counsel of record via electronic mail:

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